

NEWINGTON TOWN PLAN AND ZONING COMMISSION]

August 12, 2009

Regular Meeting

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room 3 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut

**I. ROLL CALL**

Commissioners Present

Commissioner Casasanta  
Commissioner Ganley  
Chairman Hall  
Commissioner Pane  
Commissioner Pruett  
Commissioner Schatz  
Commissioner Aieta  
Commissioner Lenares

Commissioners Absent

Commissioner Kornichuk  
Commissioner Camerota

Commissioner Aieta was seated for Commissioner Kornichuk.

**II. PUBLIC HEARINGS**

None.

**III. PUBLIC PARTICIPATION** (relative to items not listed on the Agenda-each speaker limited to two minutes.)

None.

**IV. MINUTES**

July 22, 2009 Regular Meeting  
July 22, 2009 Special Meeting

Commissioner Pruett moved to accept the minutes of the July 22, 2009 Regular Meeting and the July 22, 2009 Special Meeting. The motion was seconded by Commissioner Ganley. The vote was unanimously in favor of the motion with seven voting YES.

**V. COMMUNICATIONS AND REPORTS**

Ed Meehan: I have none under this item, I have some under Staff Report that I can get into in more detail.

**VI. NEW BUSINESS**

None.

**VII. OLD BUSINESS**

- A. **PETITION 16-09**– Hunter Development Company, P.O. Box 336 East Long Meadow, MA 01028, Attention Michael Frisbie applicant, HDC One, LLC owner, request for amendment Petition 35-06 Section 5.2.5 Special Exception B-BT Zone District. Sixty-five day decision period ends September 15, 2009.

Commissioner Ganley moved that PETITION 16-09 – Hunter Development Company, P.O. Box 366 East Long Meadow, MA 01028, Attention Michael Frisbie applicant, HDC One, LLC owner, request for amendment Petition 35-06 751 Russell Road Section 5.2.5 Special Exception B-BT Zone District be approved the parties agreeing that Section 4 (a) and (b) of the Joint Motion and Stipulation for Approval of Settlement, dated May 14, 2007, shall be deleted and replaced with the following:

Section 4 (a) Petition 35-06 (the special exception for a gasoline service station) shall be approved subject to the following conditions:

1. The development site shall be divided into Phase I, Phase II and Phase III as shown on the attached Exhibit A.

**Phase I            Site Improvements**

- A. All site work related to the gas station, convenience store, and retail buildings as shown on the approved plans entitled “Shoppes at East Cedar Street” prepared by Allen & Major Associates, Inc. and approved by the Town Plan and Zoning Commission, signed mylars dated 8-22-07 and Inland Wetland Commission, signed mylar 8-21-07 shall be completed.
- B. The roadway frontage along East Cedar Street and Russell Road shall be graded, stabilized and landscape completed in accordance with the approved site plans.
- C. The “gateway signage” at the corner of Russell Road and East Cedar Street for a ground monument sign as shown to the Commission shall be constructed and installed as shown on the site plan.
- D. Uncompleted site work in Phase I may be bonded in an amount to be determined by the Newington Town Engineer as provided in Section 5.3.5 of the Zoning Regulations.
- E. All approved off-site roadway improvements shall be completed and approved by the Connecticut Department of Transportation.
- F. As committed to the Commission, January 26, 2009 Hunter Development Company will work together with the owner and/or developer of the abutting 28 acre property with regard to a possible future internal road connection that does not negatively preclude shared access to the required traffic signal on Route 175 at the site’s westerly driveway.
- G. General grading of the “pad” sites for the bank building and restaurant building including utilities stubbed to edge of both pads ready for construction shall be completed. The “pad” sites will be loamed and seeded and kept clean of debris.
- H. The MDC sanitary sewer and water service connections for the hotel as shown on Sheet C-4 of the approved site plans shall be installed within the road along the back

of the retail building and stubbed for future connection; the fire hydrant adjacent to the southeast corner of the hotel pad site shall be connected.

- I. Retention areas #2 and #3 shall be installed as shown on the approved site plan and certified by the applicant's engineer. The parking area for the bank and restaurant pads shall be paved up to the binder course with curbing and erosion control measures determined to be necessary by the Town Engineer.

#### **Building Improvements**

- A. The gas station and convenience store shall be completed and constructed based on the building elevations prepared by Brown Lindquist Fenuccio & Raber Architects, Inc. Gas Station Building: Sheets A1.1, A1.2, dated 7/20/06 with the modification that the front façade be entirely brick.
- B. The retail building shall be completed through the installation of the roof, including the rough construction of utilities and mechanicals. The exterior of the retail building shall be finished as shown on elevation sheet A1.1 Retail Building Hunter Development Company prepared by Brown Lindquist Fenuccio & Raber, Architects. The retail building shall be connected to the MDC sanitary sewer and water service and the fire hydrant adjacent to the bank building shall be operational.

#### **Certificate of Occupancy Gas Station/Convenience Store**

- A. The Certificate of Occupancy for the operation of the gas station/convenience store will be issued upon the completion of Phase I and if necessary the posting of a surety bond for any uncompleted site work related to the interim site development of the bank and restaurant pad areas amount to be determined by the Town Engineer.

#### **Phase II**      **Site Improvements**

- A. All site work related to the bank building and/or restaurant building as shown on the approved plans entitled "Shoppes at East Cedar Street" prepared by Allen & Major Associates, Inc. and approved by the Town Plan and Zoning Commission, signed mylars dated 8-22-07 and Inland Wetland Commission, signed mylar 8-21-07 shall be completed.
- B. All remaining uncompleted site work in Phase II shall be bonded in an amount to be determined by the Town Engineer.

#### **Building Improvements**

- A. The bank building and/or restaurant building shall be completed and constructed based on the building elevations prepared by Brown Lindquist Fenuccio & Raber Architects, Inc. Bank Building, Sheet A1.1, A1.2 and Restaurant Building Sheets A1.1, A1.2, dated 7/20/06.

#### **Phase III**      **Site Improvements**

- A. All site work related to the hotel as shown on the approved plans entitled "Shoppes at East Cedar Street" prepared by Allen & Major Associates, Inc. and approved by the

Town Planning and Zoning Commission, signed mylars dated 8-22-07 and Inland Wetland Commission, signed mylar 8-21-07 shall be completed.

- B. All remaining uncompleted site work in Phase III shall be bonded in an amount to the determined by the Town Engineer.

#### Building Improvements

- A. The hotel building shall be completed and constructed based on the building elevations prepared by Brown Lindquist Fenuccio & Raber Architects, Inc. Bank Building, Sheet A1.1, A1.2 and Restaurant Building Sheets A1.1, A 1.2, dated 7/20/06.

#### **Section 4 (b)**

With respect to Petition 37-06 (site plan approval) the Commission shall delete the condition that the proposed gasoline service station/convenience store be deleted from the site plan. However, the approval of the site plan shall also be subject to all of the conditions set forth in the proceeding Section 4a.

#### **Notice to Superior Court**

Prior to the recording of this amended special exception on the Newington Land Records, the applicant's attorney and Town Attorney shall coordinate notice of this new agreement to the New Britain Superior Court and, if appropriate, request the Court's approved of a modified Stipulated Agreement.

The motion was seconded by Commissioner Casasanta.

Chairman Hall: Discussion? Ed, do you have anything to add at this time?

Ed Meehan: No, this motion is lengthy, but it puts together some of the applicant's request to re-order the site improvements as well as recommendations from staff to address some of the ambiguous sections such as Phase II, how the detention areas would be treated, and that's the area of the pad sites, and also incorporates into this suggested motion references to Hunter Development's acknowledgement that they would work with any adjacent property owner/development if the situation arises to provide access to the traffic signal, at the location approved by the State Traffic Commission. That's important because of the Commission's concern for safety of traffic on that section of East Cedar Street, and there have been discussions with another applicant, and also with Hunter at one time about this being a public road. In the future, if that works out, that section then would be deeded to the town after it is constructed. That provides access to the traffic signal in one location, reduces curb cuts, and the other items that are in here, Tom read those very articulately, are the references to the approved building elevations, which go back to 2007 for the renderings of the building facades. The last thing, two more points that I would make, the language in Section 4 (b) which refers to the site plan. This is necessary because when the Commission originally acted on this, they denied the site plan for the gas station portion of the project. Then when it went through stipulated judgment, and the special exception was approved, reference to the site plan was put back in. So in this suggested motion, I'm recommending that you carry the same approval of the new site plan with the gas station referenced here; and the last item, notice to Superior Court, is another suggestion from the Town Attorney to close the loop on this and with the applicant's attorney bring New Britain Superior Court up to date on what the two parties have agreed to.

Chairman Hall: Discussion from the Commissioners?

I think this puts clearly what has been discussed over the past couple of months, the applicant is well aware of all these things that we have asked for, and has been in agreement, so this just puts it out on the table for everyone, and I think it covers everybody. Phase I, G, the pad sites will be loamed and seeded and kept clean of debris, that would include also maintaining it so that it doesn't get overgrown as he is building the rest of the site, or when ever he does, that he doesn't let it go wild as unfortunately some other sites have along the Berlin Turnpike that haven't been quite finished. The landscape gets out of control and we certainly don't want that, because that would be the first thing people would see as they come in. Any other questions, comments?

The vote was unanimously in favor of the motion, with seven voting YES.

**PETITION 22-09 – 121 Styles Avenue, Lenares Landscape and Design, 76 Stonehedge Drive, Newington, CT 06111 applicant, Lenco Realty, LLC owner, Contact Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Site Plan Modification Section 5.3 to add 1,400 sq. ft. to an existing 1,200 sq. ft. commercial building, I Zone District. Inland Wetland Report Required.**

Commissioner Schatz moved that PETITION 22-09 – 121 Styles Avenue, Lenares Landscape and Design, 76 Stonehedge Drive, Newington, CT 06111 applicant, Lenco Realty, LLC owner, Contact Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Site Plan Modification Section 5.3 to add 1,400 sq. ft. to an existing 1,200 sq. ft. commercial building, I Zone District, be postponed to August 26, 2009.

The motion was seconded by Commissioner Ganley.

Chairman Hall: Ed?

Ed Meehan: You are waiting on the Conservation Commission/Inland Wetland report. They meet on the 18<sup>th</sup> of this month, so subsequent to their report, this is ready for a vote by the Commission.

Commissioner Schatz: Will they have a quorum?

Ed Meehan: I hope so, I can't tell you right now because I don't know, but it's a regular scheduled meeting.

Commissioner Schatz: This puts the people who are trying to build the building on hold for a while.

Chairman Hall: But we can't do it until we have the permission though, that's the problem. We can't approve this building if we don't know that Conservation is going to accept it.

Ed Meehan: It's a statutory requirement.

Commissioner Ganley: Just a question, they have had regular meetings?

Chairman Hall: They have had regular meetings, that's not the issue. Did I see another hand?

Commissioner Pane: We usually write in the suggested motion that it was being postponed due to not hearing from the Wetlands Commission.

Chairman Hall: Subject to the Wetland's Commission. Well, the way that we have it on the agenda is that it is, postponed to August 26, 2009, we could say awaiting Inland Wetland Report.

Ed Meehan: Okay, that nails it down.

Chairman Hall: Any other discussion on this? Do we have to go back and have the amendment accepted?

Commissioner Casasanta moved to approve the amendment. The motion was seconded by Commissioner Ganley. The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Hall: Okay, we voted on the amendment, now for the motion as amended.

The vote was unanimously in favor of the motion as amended, with seven voting YES

**C. PETITION 23-09 – 153 Carriage hill Drive, Miriam P. Levinson owner and applicant, 153 Carriage Hill Drive, Newington, CT 06111 request for Special Exception Section 6.13 Accessory Apartment, R-12 Residential Zone District.**

Commissioner Pane moved that PETITION 23-09 – 153 Carriage hill Drive, Miriam P. Levinson owner and applicant, 153 Carriage Hill Drive, Newington, CT 06111 request for Special Exception Section 6.13 Accessory Apartment, R-12 Residential Zone District be approved the Commission finding:

1. The proposed accessory apartment is a one (1) bedroom unit of approximately 539 sq. ft. and is accessible by an internal pass door from the front hall. A second external ground level pass door leads from the kitchen to the backyard. There are no external building features indicating the presence of two (2) living units visible from the street.
2. The proposed accessory apartment complies with the standards set forth in Section 6.13.

The motion was seconded by Commissioner Ganley.

Chairman Hall: Discussion? Ed?

Ed Meehan: This applicant submitted information that tracks the standards of Section 6.13. It's before you in that regard. There was information in the hearing testimony that is has existed for some period of time. That really is not germane here, they have to come in and show the Commission that they meet the standards as they are effective now, and I think that the applicant through the files, as done that.

The vote was unanimously in favor of the motion, with seven voting YES.

**VIII PETITIONS FOR SCHEDULING (TPZ August 26, 2009 and September 9, 2009.)**

- A. PETITION 24-09 – Assessor's Map ID #S2892400, Fenn Road, Kent E. Stoddard Jr., applicant, K.E. Stoddard et al owner, request for two (2) lot subdivision, R-20 Zone District. Schedule for August 26, 2009.

Ed Meehan: The only one that was submitted in time for the agenda posting was the Stoddard subdivision on Fenn Road. That is the seven acre parcel that is now vacant, we frequently see

that it is being used as pasture area for horses. They are looking for one lot in that area. It's pretty straight forward, subdivision.

Subsequent to the agenda going out to Commission members, Toll Brothers has reapplied for the zone amendment, for the 28 acre parcel on Cedar Mountain, from CD to R-12. The date of receipt of their application will be not until September 26<sup>th</sup>, they brought it in today, so you don't count today as the date of receipt, so I recommend that you schedule it for your second meeting in September, if that is okay with you. It gives us time to do the legal notices. They also submitted a set of plans to the Conservation Commission. They are not required to do that by statute, but I think they are trying to get the Conservation Commission to look at this from the, not from the Inland Wetlands side, but from the open space side, because there are recommendations for open space. It has nothing to do with your zone change, has more to do with their site development plan, so the point is, you can't schedule this on the 26<sup>th</sup>, because the date of receipt is the 26<sup>th</sup>, but you could do it the first meeting in September or the second, but I would suggest the second meeting, give yourself a little bit more time.

Chairman Hall: I would prefer the second meeting in September. Anybody have any objection to that?

Commissioner Schatz: No, that's good.

Commissioner Aieta: On the Stoddard thing, just some background, I know that he has a very big piece of property there, is it all zoned R-20 now?

Ed Meehan: It's all under R-20.

Commissioner Aieta: It's all under R-20. When he subdivides just two lots out, what happens to the rest of the land? It just stays as a large parcel?

Ed Meehan: The remainder will be just a little bit shy of six acres and the concept is.....

Commissioner Aieta: So he could come back and subdivide it again, keep coming until it is finished right? I just don't want him to get caught in a situation where he subdivides it and they gets into a situation that he can't do anything else with the land because then he is stuck with six acres.

Ed Meehan: Right. They have done some master planning, with this, there is enough frontage, it's not a rear lot, because we don't allow rear lots, but it has enough frontage and subsequent area that through the alignment of a standard town road opposite Elliott, they may be able to do an additional seven or eight lots in there.

Commissioner Aieta: Okay, I just don't want him to get stuck in a situation where he is subdividing it and gets stuck with a big piece of property.

Ed Meehan: Future subdivisions will be what they call a re-subdivision which will warrant public hearings, but at this point, it doesn't.

Commissioner Aieta: Okay.

Ed Meehan: One other item for scheduling, I'll bring it up now. We had talked at the last meeting of setting the public hearing date for the Plan of Conservation and Development for October 7<sup>th</sup>. I missed this, October 7<sup>th</sup> is the scheduled meeting for Economic Development, so that would conflict with their meeting. Also, I think it would be better to move this to your October 14<sup>th</sup> meeting, your regular meeting night, that would give Economic Development, EDC, two meetings

to look at this, Conservation would have two meetings, Town Council cancelled their second meeting for August, so this would give the Town Council members a little bit more time to look at this and we won't have any problem meeting our referral notices with moving it to the second, so a suggestion that you do that on the 14<sup>th</sup>, you still can act at the subsequent meeting, the 28<sup>th</sup> of October, or any time after that, but I think it gives other boards and commissions, particularly Conservation and Economic Development that have had input into this, a little bit more time to look at your plan.

Chairman Hall: Any objection to that? It makes sense because we want to make sure that people have enough time to review this. It's an important document, it's going to stand for the next ten years, so putting it off another two weeks, I think is prudent.

**IX. PUBLIC PARTICIPATION**

(For items not listed on agenda)

None.

**X. REMARKS BY COMMISSIONERS**

None.

**XI. STAFF REPORT**

Ed Meehan: Two items, one went out with the agenda package, the Chairman asked me to do some research and put some documentation together on this question on how Newington came to exempt itself from zoning, goes back to 1971, I believe it was, so I copied the statutes going back to the town council action then, it's pretty straight forward, when it was done. Not a lot of discussion in the records as to why it was done, but what was there I copied for the Commission members benefit.

The other item on the table is a brief memo on the question that Domenic raised about the zoning status of Church Terrace. It certainly was confusing, I guess I'll call it a split decision. The bottom line is, 638 Church Street, the front lot, should be in the R-20 zone, that's my opinion. It wasn't adopted that way by the zoning commission back in '81. There are references to a map which the applicant submitted which apparently showed the whole six lot subdivision all the way out to Church Street to be put in the R-7 zone. During the public hearing testimony, the applicant's attorney mentioned that that was an error, that they didn't mean that, it was, but no attempt in the Certificate of Action or the Motion to approve the zone change to get the correct zone boundary. The Commission could have said, you know, we approve re-zoning from PD and R-20 to R-7 for these five lots, but they referenced the whole subdivision and so from 1981 up to the present time, it was carried as a full R-7 zone. I think the error was it should have been R-20 on the front and R-7 in the back, so I suggested in my memo, at the Commission's convenience this be brought back as a correcting public hearing matter, and the Commission initiate this, and we get the records right so that we can correct the zone map. I don't think we can do that, I can't do that at staff, that's for sure because this is a policy issue, changing the zoning map, but it's been that way since 1981 on all the major zoning maps and it's been carried forward, so thanks for bringing that forward to us, and I think some time in the future we should bring it to public hearing.

Commissioner Aieta: Let me ask a question? We don't have in here the actual motion, we have this memo from June 26<sup>th</sup>, '81 and it's saying from, I was on the Commission at that time, and I remember this specifically, a zone change from R-10 in PD to R-7. It's saying R-20 in this memo from Bob Stengel.



Ed Meehan: I can get a copy of that. The R-10 I think that's the wrong reference.

Commissioner Aieta: There are a lot of mistakes. I know the intent of the Commission at the time, and you could even tell by reading the minutes and everything, that the front lot was the buffer for Church Street, was an R-20 zone, and that house on the corner, Domenic's house was to be, stay in the R-20 zone, and then there was supposed to be R-12 and then the lots that were closest to the industrial zone were to be R-7. But then he came in at a date after this and changed the whole thing to an R-12 zone because there are no duplex houses there.

Ed Meehan: No, what happened in '94 was the subdivision requirements for roadway width were modified and the duplex lots were eliminated with the requirement that they be single family homes. The zone wasn't actually changed.

Commissioner Aieta: So it's still a R-7 and you can have single family homes on a R-7 lot.

Ed Meehan: Yeah, because an R-7 still requires 12,000 square feet.

Commissioner Aieta: The R-7 allows you to have duplexes, right.

Ed Meehan: By special exception, but the front lot, has to go, both sides of Church Terrace, north and south, should be R-20 and that is consistent with what I think people thought they were doing, but it didn't come out that way.

Commissioner Aieta: Do you want to schedule this and get it straightened out because we are trying to change the maps in the books, so that they are consistent with what is going on.

Ed Meehan: I don't have a problem changing the Plan of Conservation and Development because it's not a zoning document, but to go back and change the zoning document you would have to have a public hearing. So when ever you want to do it.

Commissioner Aieta: So do you want to clean it up?

Chairman Hall: I think we should, I mean, it has functioned as a R-20 certainly.

Commissioner Pane: It was designed as R-20 and then the houses, there's two houses behind the R-20 are supposed to be R-12 and then R-7. That was the way it was designed, it just didn't get put that way.

Chairman Hall: But even the ones that are R-7 function as R-12 because you have single family homes.

Commissioner Pane: Well, like the Planner said, they only have 12,000 square feet so they are R-7's.

Commissioner Aieta: No, no, 12,000 is an R-12 zone. R-7 is a 12,000 square foot lot with the ability to become a duplex by a special exception.

Ed Meehan: There are no inter-town referrals for this, there are no referrals to CCROG, it's just a straight forward public hearing. We would notify the neighbors as we always do, but then we do our maps now digitally in our GIS so it's no big deal to update the map.

Chairman Hall: Can we schedule it for the next time, or is that too soon.

Ed Meehan: No, the legal ads for the 26<sup>th</sup>, I can get in the paper by Friday.

Chairman Hall: All right, that's a pretty light night, so let's fix it.

**XII. ADJOURNMENT**

Commissioner Casasanta moved to adjourn the meeting. The motion was seconded by Commissioner Aieta. The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Norine Addis,  
Recording Secretary